

REMARKS

Claims 1 – 11 are presented for reconsideration and further examination in view of the foregoing amendment and following remarks.

In the outstanding Office Action the Examiner rejected claims 1, 4, and 7 under 35 U.S.C. 102(b) as being anticipated by U.S. patent no. 3,775,916 to Bair; rejected claims 1 – 3, and 10 under 35 U.S.C. 103(a) as being unpatentable over Bair; rejected claims 1 and 4 – 6 under 35 U.S.C. 103(a) as being unpatentable over Bair in view of U.S. patent no. 4,620,404 to Rizk; rejected claims 1, 4, and 8 – 9 under 35 U.S.C. 103(a) as being unpatentable over Bair in view of U.S. patent no. 5,826,389 to Siler; and rejected claims 1 and 11 under 35 U.S.C. 103(a) as being unpatentable over Bair in view of U.S. patent no. 4,617,219 to Schupack.

By this Response and Amendment, claim 1 has been amended to include a limitation reciting the location of the support frame as being located between the first and second face panels and to more clearly recite a fiber reinforced cementitious material; and the Examiner's 102(b) and 103(a) rejections are traversed.

Support for the amendment to claim 1 is found in paragraph 0006 of Applicant's published patent application. Therefore, it is respectfully submitted that the above amendment does not introduce any new matter to this application within the meaning of 35 U.S.C. 132, or any narrowing of any element of the claims.

Rejection Under 35 U.S.C. 102(b)

The Examiner rejected claims 1, 4, and 7 under 35 U.S.C. 102(b) as being anticipated by U.S. patent no. 3,775,916 to Bair.

Response

By this Response and Amendment, the Examiner's rejections of claims 1, 4, and 7 are respectfully traversed.

The presently claimed invention, as claimed in claim 1, is directed to a structural wall panel that comprises spaced apart face panels of a cementitious material with a support frame continuous with the face panels and disposed therebetween.

Bair teaches a multi-layer wall panel that has a sandwich construction comprising an outer layer of masonry building units, a principally load-bearing layer of cementitious material, and an insulating layer. More particularly, as shown in Figs 3 – 4, an outer masonry layer 10 is mounted on a load bearing cementitious layer 11. An insulating layer 12 is mounted to a face of the cementitious layer opposite masonry layer 10. Vertical and horizontal support beams 18 and 20, disposed along sides of the panel, are mounted to a face of the cementitious material opposite the masonry layer, within the depth of the insulating layer (*see* col. 2, line 67 – col. 3 line 6).

Bair nowhere discloses a support frame that is formed of a fiber-reinforced cementitious material that is *continuous* with the cementitious material of the first and second face panels. Moreover, Bair nowhere discloses a continuous support frame being located *between* first and second cementitious face panels.

For a reference to be anticipatory, it must show all of the elements of the invention. Bair does not show such a continuous support frame. Bair teaches a support frame that is sectional (*see Bair Fig. 5*). As such, Bair cannot anticipate independent claim 1 of the present invention as originally submitted and as herein resubmitted because it does not show all of the limitations of the present invention. Since claims 4 and 7, depend from claim 1, they contain all of the

limitations of amended claim 1, the foregoing argument applies thereto. Therefore, reconsideration and withdrawal of the rejections is respectfully requested.

Rejection Under 35 U.S.C. 103(a) In View of Bair

The Examiner rejected claims 1 – 3 and 10 under 35 U.S.C. 103(a) as being obvious in view of Bair.

Response

By this Response and Amendment, the Examiner's rejections of claims 1 – 3 and 10 are respectfully traversed:

The argument made with respect to the rejections of claims 1, 4, and 7 under §102(b) is herein incorporated by reference. Since the cited prior art neither teaches nor suggests all of the limitations of claim 1, claim 1 is not rendered obvious and is therefore patentable thereover. Since claims 2, 3, and 10 ultimately depend from amended claim 1, they contain all of the limitations thereof; they are likewise patentable over the cited references. Therefore, reconsideration and withdrawal of the rejections is respectfully requested.

Rejection Under 35 U.S.C. 103(a) in View of Bair and in Further View of Rizk

The Examiner rejected claims 1 and 4 – 6 under 35 U.S.C. 103(a) as being unpatentable over Bair in view of Rizk.

Response

The argument made with respect to the rejections of claims 1, 4, and 7 under §102 is incorporated herein by reference.

By this Response and Amendment, Applicant respectfully traverses the Examiner's rejection. For a reference to render a claim obvious, it must teach or suggest all of the limitations of the claim either alone or when coupled with a secondary reference. The Examiner has not shown that the primary reference contains all of the limitations of amended independent claim 1. Moreover, neither reference teaches a cementitious support frame that is continuous with the cementitious material of the first and second face panels as claimed in amended independent claim 1. Amended independent claim 1 is further distinguishable over the prior art in that the amendment to the claim makes it clear that the reinforced cementitious material is continuous. Claims 4 – 6 ultimately depend from amended claim 1. Therefore, claims 4 – 6 contain all of the limitations of amended claim 1. Since dependent claims 4 – 6 contain the limitations of amended claim 1, they are not rendered obvious by the cited references because neither the primary nor the secondary reference, singularly or collectively, teaches a cementitious support frame located between first and second cementitious face panels as claimed in amended independent claim 1. Therefore, reconsideration and withdrawal of the rejections is respectfully requested.

Rejection Under 35 U.S.C. 103(a) in View of Bair and in Further View of Siler

The Examiner rejected claims 1, 4, 8 and 9 under 35 U.S.C. 103(a) as being unpatentable over Bair in view of Siler.

Response

The argument made above with respect to the rejections of claims 1, 4, and 7 under §102 and with respect to the rejections of claims 1 and 4 – 6 under 35 U.S.C. under 103(a) are incorporated herein by reference.

By this Response and Amendment, Applicant respectfully traverses the Examiner's rejection. For a reference to render a claim obvious, it must teach or suggest all of the limitations of the claim either alone or when coupled with a secondary reference. The Examiner has not shown that the primary reference contains all of the limitations of amended independent claim 1. Moreover, neither reference teaches a cementitious material that is continuous with the cementitious support frame material of the first and second face panels as claimed in amended independent claim 1. Amended independent claim 1 is further distinguishable over the prior art in that the amendment to the claim makes it clear that the reinforced cementitious material is continuous. Claims 4, 8 and 9 ultimately depend from amended claim 1; therefore, claims 4, 8 and 9 contain all of the limitations of amended claim 1. Since dependent claims 4, 8 and 9 contain the limitations of amended claim 1, they are not rendered obvious by the cited references because neither the primary nor the secondary reference, singularly or collectively, teaches a cementitious support frame located between first and second cementitious face panels as claimed in amended independent claim 1. Therefore, reconsideration and withdrawal of the rejections is respectfully requested.

Rejection Under 35 U.S.C. 103(a) in View of Bair and in Further View of Schupack

The Examiner rejected claims 1 and 11 under 35 U.S.C. 103(a) as being unpatentable over Bair in view of Schupack.

Response

The arguments made above with respect to the rejections of claims 1 and 11 under §102 and with respect to the rejection of claim 1 under 35 U.S.C. under 103(a) are incorporated herein by

reference.

By this Response and Amendment, Applicant respectfully traverses the Examiner's rejection. For a reference to render a claim obvious, it must teach or suggest all of the limitations of the claim either alone or when coupled with a secondary reference. The Examiner has not shown that the primary reference contains all of the limitations of amended independent claim 1.

Moreover, neither reference teaches a cementitious support frame material that is continuous with the cementitious material of the first and second face panels as claimed in amended independent claim 1. Amended independent claim 1 is further distinguishable over the prior art in that the amendment to the claim makes it clear that the reinforced cementitious material is continuous. Claim 11 ultimately depends from amended claim 1; therefore, claim 11 contains all of the limitations of amended claim 1. Since dependent claim 11 contains the limitations of amended claim 1, it is not rendered obvious by the cited references because neither the primary nor the secondary reference, singularly or collectively, teaches a cementitious support frame located between first and second cementitious face panels as claimed in amended independent claim 1. Therefore, reconsideration and withdrawal of the rejections is respectfully requested.

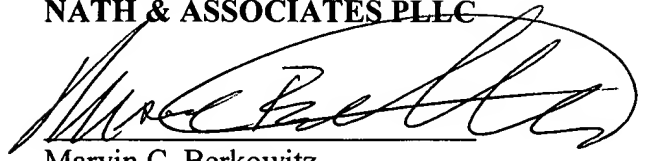
CONCLUSION

In light of the foregoing, Applicant submits that the application is now in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

Respectfully submitted,
NATH & ASSOCIATES PLLC

Date: September 28, 2003
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By:

A handwritten signature in black ink, appearing to read "Marvin C. Berkowitz", written over a horizontal line.

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